

BIRMINGHAM REPORTING SERVICE

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IN THE UNITED STATES DISTRICT COURT FOR
THE MIDDLE DISTRICT OF ALABAMA
NORTHERN DIVISION

TROY E. TILLERSON,)
)
PLAINTIFF,)
)
)
) CIVIL
VS.) ACTION
) NO.
) 3:05CV985-B
THE MEGA LIFE AND HEALTH)
INSURANCE CORPORATION, et)
al.,)
)
DEFENDANTS.

DEPOSITION OF VIRGIL MEIER

ORIGINAL

The deposition of VIRGIL MEIER was taken before Anna Tolleson, CSR, as Commissioner, on July 17, 2007, by the plaintiff, commencing at 1:30 p.m., in the office of Well, Gotshal & Manges, 200 Crescent Court, Suite 300, Dallas, Texas 75201 pursuant to the stipulations set forth herein.

Exhibit G

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1 **A** Correct.

2 **Q** Is that expressed in a number?

3 **A** Yes.

4 **Q** Okay. And, I mean, is there a
5 range of numbers that it's expressed in?
6 In other words, is there a scale like 1 to
7 10, or how is it expressed?

8 **A** It would be the percentage increase
9 in the rate that that policy would receive
10 and the person on that policy.

11 **Q** Increased from what?

12 **A** For the standard rate.

13 **Q** Who sets the standard rate?

14 **A** That would be the actuaries.

15 **Q** How do you arrive at it?

16 **A** We will look at the -- basically
17 the rate is -- the premium rate basically
18 reflects the future cost for that policy,
19 and we'll look at historical costs as well
20 as take into account what the future
21 anticipated rate increases would need to be
22 to cover various components of insurance.

23 **Q** And is that analysis -- of course

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1 y'all look at some raw data, I guess, to
2 come up with that value, do you not?

3 **A** Yes.

4 **Q** What is the raw data that you'll
5 look at to come up with that value?

6 **A** We'll look at the claims and
7 premium for the entire book of business
8 that we're pricing.

9 **Q** When you say look at the claims,
10 whose claims would you look at?

11 **A** All the claims that would be on the
12 policies on that block of business.

13 **Q** What block of business did
14 Mr. Tillerson belong to?

15 **A** That would change over time. That
16 block of business is merged with Mega and
17 also several other form numbers at this
18 point.

19 **Q** And who?

20 **A** Several other forms. His policy
21 form plus -- we try to have enough size and
22 volume to make it credible.

23 **Q** Do you know how many different

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1 policy forms are included in
2 Mr. Tillerson's block?

3 **A** I believe there are two right now.

4 **Q** Okay. Consisting of what type of
5 policy forms?

6 **A** They're similar product designs of
7 PPO products. There would be Mega Midwest
8 versions, and there's two different policy
9 forms right now.

10 **Q** Do those policy forms -- can they
11 be identified with a number, letter, or
12 some type of designation?

13 **A** We refer to them as PPO1 and PPO2.
14 I'm not sure what the form numbers are.

15 **Q** I've seen his referred to as PPO2.
16 Do you know what the other policy form
17 number is that's included in his block of
18 business?

19 **A** No, I don't.

20 **Q** If you wanted to know the answer to
21 that question, who would you ask?

22 **A** Someone on my staff.

23 **Q** Okay. Nevertheless, for example,

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1 to come up with a standard rate for, say,
2 Mr. -- I guess the block of business that
3 Mr. Tillerson would belong to, you would
4 look at everybody in his block, the claims
5 of everybody in his block?

6 **A** Yes.

7 **Q** And what are you looking for when
8 you're looking at those claims?

9 **A** When we're looking at the claims,
10 we're looking at how the claims are running
11 compared to what's expected to determine if
12 the experience is getting better or worse.

13 **Q** What would you do with that
14 information?

15 **A** If it's getting worse -- that's one
16 portion of the rate change. The other
17 piece is the trend, meaning there's
18 constant trend due to medical changes,
19 inflation, or any pressures on cost. So
20 it's one of the two components that we
21 would look at at setting the price.

22 **Q** Is there some type of book or
23 manual or paper or document that would

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1 **A** As far as rating goes, we can
2 change the factors for any one of those,
3 but they can also change the benefit or
4 where they live or whether they're a smoker
5 or not.

6 **Q** I'm looking at what goes into
7 changes in the base rate right now, and you
8 said there's changes in the options under
9 the certificate?

10 **A** Well, in the base rate itself, that
11 would be just an adjustment for inflation
12 or experience.

13 **Q** Okay. Experience of everybody in a
14 certificate holder's group or block of
15 business?

16 **A** Block of business.

17 **Q** Block of business. I've seen some
18 references to classes in some of these
19 documents. Have you ever heard that?

20 **A** The class is normally referred to
21 as either a form or a marketing group in
22 that as far down as the rating factors we
23 just talked about, the demographics or area

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1 **Q** And you're telling me it does not
2 have an effect on the renewal plan?

3 **A** It is part of the calculation.
4 That's what we talked about. The rate up
5 that allows PMFC to apply to it. If they
6 got a rate up of 50 percent -- let's say at
7 the beginning they would get a 50 percent
8 rate up on that rating as well.

9 **Q** Okay.

10 **A** It's kind of like the -- once they
11 had that established, it stays that way
12 throughout their policy.

13 **Q** And there's no change in that?

14 **A** No.

15 **Q** Okay. What about if somebody had
16 cancer and then recovered from it?

17 **A** Once they have it, they stay with
18 it.

19 MR. LAMPKIN: You're talking
20 about cancer before policy issues or during
21 the existence of the policy.

22 **Q** Does it matter?

23 **A** No. If they took out a policy and

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1 did not have cancer and developed cancer
2 and later got better, they would stay at
3 the same rating they had at the initial
4 time the policy was issued.

5 **Q** Well, if they're rated up because
6 they have cancer, does the fact that they
7 recover from that cancer, doesn't that --
8 is that -- the fact that they -- is their
9 recovery allowed to come off the rated up
10 status?

11 **A** That would be post issue
12 underwriting, which would be just the same
13 thing as if we wrote them up. So we would
14 not adjust the rate downward.

15 **Q** Okay. All right. Number 34, I'm
16 asking about form letters related to rate
17 increases sent to the plaintiff. I haven't
18 shown you any specific letters. I do have
19 some, though, but I think you told me the
20 form letters that are generated that would
21 reflect any renewal premium increase are
22 basically sent out by the system? The
23 computer tells them to send one out?

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1 **Q** Have you seen any type of report by
2 the office of general accounting?

3 **A** No.

4 **Q** The OGA?

5 **A** No.

6 **Q** Okay. Before I leave that last
7 topic, is there any type of calculation
8 that you've ever run while being employed
9 at the Mega Life and Health Insurance
10 Company that specifically apportions any
11 number of calculation to come up with to
12 medical malpractice insurance?

13 **A** No.

14 **Q** When these letters tell
15 Mr. Tillerson, "Everyone was covered such
16 as yours will experience an increase." Who
17 is "everyone"?

18 **A** That would be the block that we're
19 referring to.

20 **Q** The block of --

21 **A** The form that he was in with and
22 all the other forms we combined together
23 for the rating.

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1 ○ The PPO2?

2 **A** Yes.

3 MR. LAMPKIN: Plus he said the
4 others that were combined in with it for
5 the rating.

6 **Q** As reflected in those actuarial
7 memorandums?

8 A Yes.

9 Q Okay. Now, were those done, if you
10 know -- I can go back and read them myself
11 -- for the blocks in the state of Alabama
12 or nationwide?

13 **A** They -- I know that recent ones
14 have been nationwide. I don't know. It
15 was early on, though.

16 **Q** You may not know this. Do you know
17 anything about ERISA?

18 A A little bit.

19 **Q** I know you're not an expert in it,
20 are you?

21 A No.

22 o What do you know about ERISA?

23 A Oh, not much, actually, but -- do

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1 between these two so that indicates to me
2 that they're different. Do you know what
3 marketing program he's talking about?

4 MR. LAMPKIN: Object to the
5 form.

6 **A** I don't know what he's into
7 legalese.

8 **Q** I'm sorry --

9 **A** I'm not sure that his wording is
10 into a legalese format. I don't know that
11 his comma means the same as what yours
12 would.

13 **Q** Okay. Would you ask him about
14 that, if you wanted to know what he meant?

15 **A** To me, you can have the same policy
16 form with a different marketing program.

17 **Q** Okay. The policy form that we're
18 talking about is PPO2; right? That's what
19 Mr. Tillerson had. What marketing program
20 was he part of?

21 **A** The sales division can come up with
22 their own names. We don't determine how
23 they market or what they use for names. We

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1 age, gender, where they live, benefit
2 designs.

3 **Q** Let me ask you this: The renewal
4 rates that Mr. Tillerson received, are
5 those going to be the same rates for
6 everybody in his group?

7 **A** Yes.

8 **Q** Okay. So when he was raised to
9 \$310 for premium back on December 21, 1998,
10 would that have been for everybody in his
11 group?

12 **A** For everybody that had the same
13 characteristics or parameters, yes.

14 **Q** Characteristics being?

15 **A** Age, gender, debits.

16 **Q** Did anybody live where he lived in
17 that designated geographic area, was the
18 same age, male, and I guess nonsmoker?

19 **A** Yes. Whatever his characteristics
20 were.

21 **Q** Okay. Have you seen the
22 certificate of insurance that's made the
23 basis of this case?

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1 pricing purposes look only at that block of
2 business; correct?

3 **A** We will take blocks and merge
4 blocks together as time goes by to keep a
5 sizable number of exposures in that block.

6 **Q** Okay. So while you may close a
7 block of business, there may not be any new
8 entrance, you do combine or have combined
9 several blocks of business?

10 **A** Yes.

11 **Q** And the purpose of that is what,
12 now?

13 **A** To keep a sizable number of people
14 to have a predictable basis so it doesn't
15 get too small.

16 **Q** Have you ever done that, or has
17 Mega ever done that in the past, to the
18 best of your knowledge, with respect to the
19 block of business to which Mr. Tillerson
20 belonged?

21 **A** Yes. We've combined that with
22 other PPO blocks as well as the PFL and
23 Mega business.

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1 you know -- well, let me start with this.

2 Do you know that Mega has combined

3 Mr. Tillerson's block with another, at

4 least once?

5 **A** Yes.

6 **Q** Do you know if it's more than once?

7 **A** I would say yes. Because we have
8 combined Mega and PFL as well.

9 **Q** Okay. So it's been done at least
10 twice?

11 **A** Yes.

12 **Q** Do you know if it's been done more
13 than that?

14 **A** I would have to go back and look at
15 all the different policy forms that were
16 merged together.

17 **Q** I'm just asking as you sit here if
18 you know if it's been more than that.

19 **A** Possibly. I don't know.

20 **Q** Well, hypothetically speaking, once
21 you merge and then close off a block of
22 business, for pricing purposes, you're just
23 looking at that block?

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1 **A** Yes.

2 **Q** "This large claim will not be fully
3 charged against this segment." Do you know
4 what segment Mr. Ames is referring to?

5 **A** Segment, it would be more -- it's
6 like a block. Like we talked about today.

7 **Q** Okay. Not a class?

8 **A** No.

9 MR. COUCH: Give me a couple
10 minutes here. I think I am going to wrap
11 it up. Thank you, sir. I appreciate your
12 time.

13 MR. LAMPKIN: I might have a
14 couple of them real quick.

15 EXAMINATION BY MR. LAMPKIN

16 **Q** Mr. Meier, assume for me that you
17 have an individual that purchases a policy
18 in 1996 and its rate is standard, okay?

19 **A** Okay.

20 **Q** Then assume at some point in time
21 while the policy is still in effect that he
22 develops some medical conditions, including
23 some form of cancer. Is there going to be

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1 any medical rating of him after the policy
2 has been issued?

3 **A** No. He will get the same rate
4 changes as everybody else on his form.

5 **Q** So his individual health condition
6 will not cause his premiums to go up more
7 than everybody else in the group goes up?

8 **A** Correct.

9 **Q** Now, I'm going to show you the
10 document that we've produced TI001259
11 through 270. I want you to look at the
12 second page. What is this document?

13 **A** This complete document is the
14 information that is sent to the state for
15 rate filings.

16 **Q** Okay. This would be --

17 **A** -- cover letters and information.

18 **Q** This would have gone to the State
19 of Alabama?

20 **A** Yes.

21 **Q** Looking at the third page, which is
22 1261, would you read the first three
23 sentences of paragraph B that says,

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1 "basis?"

2 **A** "There is no critical experience
3 for this clad in Alabama. Therefore a
4 potential nationwide experience shows the
5 rate adjustment is needed at this time.
6 For the sake of credibility experience from
7 PFL Life Insurance Company was pulled with
8 experience of Mega Life and Health
9 Insurance Company. Since both companies
10 offer similar products at the same premium
11 level, the projected loss ratio is defined
12 as the present value expected, divided by
13 the present rate of expected premiums."

14 **Q** Okay. What's the date of that
15 document?

16 **A** 08/25/98.

17 **Q** Does that reflect that the PFL
18 policy that Mr. Tillerson had was pulled
19 with other -- with similar Mega policies in
20 order to determine what the renewal rate
21 should be?

22 **A** Correct.

23 **Q** And would that have the effect of

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1 spreading out the risk in adding more
2 people?

3 MR. COUCH: Object to the form
4 of the question.

5 **A** Yes.

6 **Q** And by spreading out the risk, are
7 you trying to keep a premium lower by
8 having more experience or bigger pool?

9 **A** Not necessarily lower, but the
10 correct rate.

11 **Q** Okay. You're trying to find the
12 correct rate?

13 **A** Yes.

14 **Q** Instead of some of the things that
15 you've talked about with closed blocks and
16 things like that? A death spiral and
17 everything else, what was being done here
18 was designed to try to prevent something
19 like that; is that right?

20 **A** Yes.

21 MR. LAMPKIN: I think that's it.
22
23